

REMARKS

The above amendments and following remarks are submitted in response to the First Official Action of the Examiner mailed June 19, 2002. Having addressed all objections and grounds of rejection, claims 1-20 as amended, being all the pending claims, are now deemed in condition for allowance. Reconsideration to that end is respectfully requested.

Page 1 of the specification as filed requires serial numbers and filing dates of cross-referenced, co-pending applications. In response thereto, Applicants have amended the specification above and have supplied support for these amendments in Appendix A, hereto attached.

The Examiner has objected to Figs. 1, 5, and 6. Furthermore, the Chief Draftsperson has objected to Figs. 11 and 12. In response thereto, amended Figs. 1, 5, 6, 11, and 12 are herewith supplied. No new matter has been added.

Applicants have amended claims 1-3 and 6-7 above to more clearly specify Applicants' inventive contribution. Support for these amendments is found in Appendix B, hereto attached.

The Examiner has rejected claims 1-20 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,583,561, issued to Baker et al (hereinafter referred to as "Baker"). This ground of rejection is respectfully traversed as to amended claims 1-20 for

the reasons provided below.

"It is axiomatic that for prior art to anticipate under §102 it has to meet every element of the claimed invention, and that such a determination is one of fact". *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81, 90 (Fed. Cir. 1986). The rejection is respectfully traversed because Baker does not meet every element of the claimed invention, as amended.

An extremely important aspect of the present invention is described in the specification at page 7, lines 4-12:

The present invention overcomes many of the disadvantages found within the prior art by providing a video on demand system which separates the tasks of supplying video to subscribers from the tasks associated with managing the subscriber interface. The key to this approach is to provide an architecture in which the necessary functions are divided into two separate portions. A first subsystem, called a video server, is specifically dedicated to retrieving and transmitting the stream of video information. Virtually no other functions are performed by the video server. A second subsystem, called the transaction server, handles virtually all other functions including control interface with the subscribers, spooling of digitized video data, subscriber accounting, e-mail, facsimile, web access, etc.

That the Examiner did not appreciate this dichotomy in the claims as originally presented is apparent from his rejection of claim 1, for example, which reads in part:

Regarding claim 1, Baker discloses in Fig. 1, a Video on Demand System which supplies a video program to a subscriber receiver 22, a transaction server (VOD server 12), is connected to a video library 10 that stores VOD programs (column 6, line 38-45), video server 12 receives video requests from users (column 7,

lines 28-55) retrieves the requested video from the video library 10 and passes it on to the network interface which in turn transfers it to the user's receiver 22 (column 7, line 45-55). (emphasis added)

It is clear that the Examiner has read Video Server 12 of Baker as both the "Transaction Server" and "Video Server" of the claimed invention. Furthermore, he has read the single element of Baker to include the functionality of both elements of Applicants' invention.

The Examiner repeats the same mistake with regard to his rejection of claim 6 wherein he states:

....a transaction server (VOD server 12) is connected tovideo server 12 receives video requests....

He continues this error with regard to claims 11 and 16, the other remaining independent claims.

In response thereto, Applicants' have amended the claims to more explicitly describe the dichotomy of a "video server" which only streams already spooled video programs and a "transaction server" which performs the remaining VOD functions.

Though not discussed by the Examiner, the alternative embodiment of Fig. 3 of Baker is not helpful in that it tends to confuse the division of labor. Thus, claims 1-20, as amended, now make it clear that the "video server" only streams previously spooled video programs. The "transaction server" does the rest.

The remaining limitations of the dependent claims, as amended, further distinguish over Baker. With regard to the

rejection of claims 2 and 8, for example, the Examiner states:

Regarding claims 2 and 8, Baker discloses that video server 12 acts as a gateway.....and performs in a middleware environment.....

Clearly, claims 2 and 8, as amended require the "middleware environment" within the "transaction server".

With regard to claims 3, 4, and 10, it is the "Transaction Server" which further comprises a "Unisys" "mainframe computer". This is in specific opposition to the Examiner's rejection wherein the "video server" is a "Unisys" "mainframe computer". In similar fashion with regard to the rejection of claim 20, the Examiner finds that the "video server" performs subscriber accounting rather than the "transaction server" of the claimed invention.

Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-20, being the only pending claims.

Respectfully submitted,

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By their attorney,

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